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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/622,674

10/02/2000

John Shuker

43191-220477

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05/06/2011

JOHN S. PRATT, ESQ

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1100 PEACHTREE STREET

SUITE 2800

ATLANTA, GA 30309

EXAMINER

SULLIVAN, MATTHEW J

ART UNIT

PAPER NUMBER

3677

NOTIFICATION DATE

DELIVERY MODE

05/06/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 09/622,674	Applicant(s) SHUKER, JOHN	
	Examiner MATTHEW SULLIVAN	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

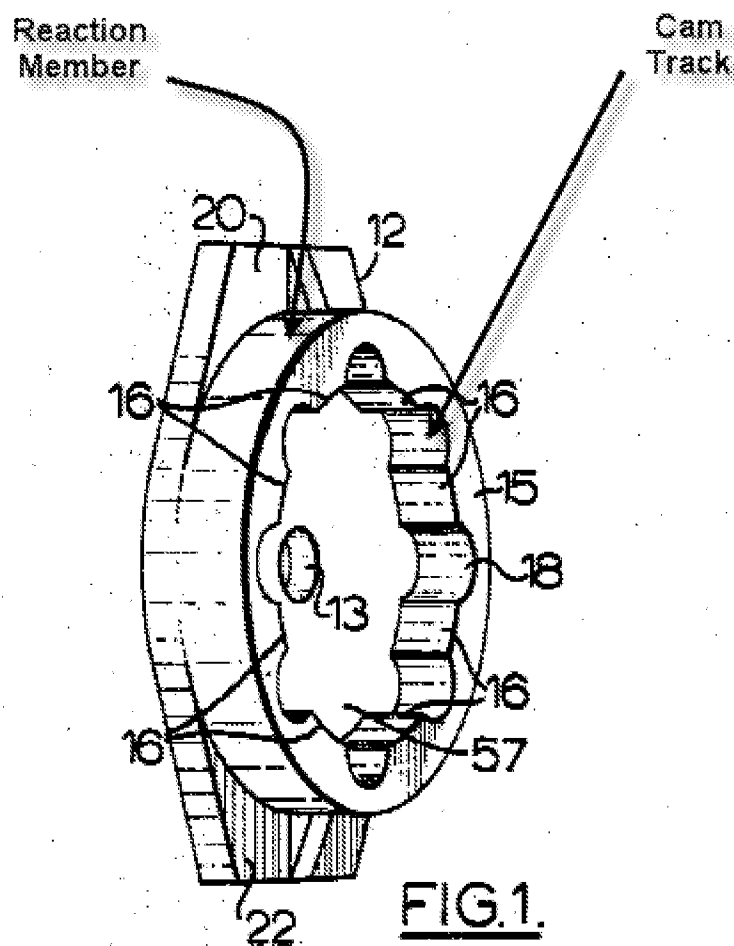
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magi, U.S. Patent 3,583,734 (6/8/71).

Magi clearly teaches a hinge assembly (fig. 3) including a first hinge leaf (59) hingedly connected to a second hinge leaf (26) by a hinge pin (38), the hinge pin being rotatably mounted in one hinge leaf and non-rotatably mounted in the other hinge leaf and a check mechanism (55, 44-47) operably connected to the hinge pin and the one hinge leaf to releasably hold the first and second hinge leaves at at least one angular position about the hinge axis, the check mechanism includes a check body (44-47) rotatably located within an annular cam track (see below), the check body including two or more check members (46) which are equally spaced from one another circumferentially about the hinge axis, the check members being resiliently biased in a radial outward direction relative to the hinge axis to engage and run along the cam track (see 55, see figs. 4-5), the check body being driven along the annular cam track by

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relative rotation between the first and second hinge leafs, the cam track including at desired locations therealong one or more check formations which co-operate with the check means to releasably retain the first and second hinge leafs at a desired angular position relative to one another, the cam track being formed on a reaction member (see below) which is non-rotatably located in a housing (12, 36) fixedly secured to the one hinge leaf, the reaction member being in the form of an annulus. Magi does not teach the annulus formed from sintered metal and the housing being formed as a metal pressing. However, the examiner notes that these claims are considered to be product-by-process claims due to the limitations "formed from sintered metal" and "formed as a metal pressing". "Even though product-by-process claims are limited by and defined by the process, the patentability of the product does not depend on its method of production. Determination of patentability is based on the product itself. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process", *In re Thorpe*, 227 USPQ 964, 966. See MPEP 2113.



Regarding **Claim 2**, Magi teaches the housing having a bottom wall (12) and an open top closed by an end cap (36, 58) the check body located in between the bottom wall and end cap and the hinge pin being rotatably coupled in the bottom wall and end cap.

Regarding **Claim 3**, Magi teaches the check formations in the form of recesses spaced along the cam track into which the check members are received in order to

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releasably retain the hinge leafs at a desired angular position relative to one another (see 18).

Regarding **Claim 4**, Magi teaches the recesses arranged in one or more groups (pairs of recesses 180° opposite each other across the hinge axis) corresponding to respective check positions, the recesses in each group corresponding in number and circumferential spacing to the number and circumferential spacing of the check members such that at a desired check position all check members are located in a corresponding recess of the group.

Regarding **Claim 7**, Magi teaches the hinge leaf axially withdrawable from the hinge pin so as to define a lift-off hinge assembly (see figs. 1-2).

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Magi as applied to claim 1 above, and further in view of Riblett, U.S. Patent 5,412,842 (5/9/95).

All the aspects of the instant invention are disclosed above but for the check member being in the form of balls.

Riblett teaches a check hinge wherein the check members are balls (74) at the time of the invention it would have been obvious to one of ordinary skill in the art barring any unforeseen result to provide Magi with the check member features of Riblett because balls would have less friction than fingers (as taught by Magi) during rotation, but would still allow for effective checking action, **[Claim 5]**.

Regarding **Claim 6**, Magi teaches each check member located in a radially extending bore formed in a check body in which is housed a resilient means (see fig. 5, see elements 55) for biasing the check members outwardly. Riblett teaches the balls each located in radially extending bores (see fig. 5). The instant combination of Magi-Riblett would clearly satisfy the limitations as claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW SULLIVAN whose telephone number is (571)270-5218. The examiner can normally be reached on Mon-Thurs, 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677

/M. S./
Examiner, Art Unit 3677